

**DECLARATION OF JOSEPH M. SAKA IN SUPPORT OF
DEFENDANT FEDERAL DEPOSIT INSURANCE CORPORATION
AS RECEIVER FOR SUN WEST BANK'S MOTION TO COMPEL
PROGRESSIVE CASUALTY INSURANCE COMPANY'S TIMELY
PRODUCTION OF DOCUMENTS**

I, Joseph M. Saka, declare:

1. I am an attorney licensed to practice in the District of Columbia and the State of Texas.

2. I am an associate in the law firm of Dickstein Shapiro, LLP in Washington, DC. Dickstein Shapiro serves as counsel for the Federal Deposit Insurance Corporation as Receiver for Sun West Bank ("FDIC-R") in this action.

3. I submit this declaration in support of FDIC-R's Motion to Compel Progressive Casualty Insurance Company's Timely Production of Documents.

4. On June 14, 2013, the FDIC-R served its first set of requests for production of documents, its first set of interrogatories, and its first set of requests for admission on Progressive.

5. Progressive did not produce any documents in this case until December 16, 2013.

6. The FDIC-R repeatedly has requested that Progressive promptly complete its production and comply with the ESI Protocol.

7. On December 19, 2013, I emailed Progressive's counsel and requested when Progressive anticipated completing its production.

8. Rather than providing the requested information, Progressive's counsel contacted FDIC-R's counsel and advised that they intended to make a new proposal regarding the production of ESI. Progressive's

counsel did not tell FDIC-R's counsel when it expected to complete its production of documents.

9. On December 27, 2013, I contacted Progressive's counsel, Lew Loss, and requested information as to when Progressive anticipated completing its production. During the teleconference, Mr. Loss indicated again that Progressive intended to make a new proposal regarding the production of ESI at a meeting in January, at which point Progressive would discuss the guidelines, logistics, and timeline for its ESI production. Progressive's counsel, however, would not provide information as to when its production would be complete. Given the nearing deadlines in this case, I advised Mr. Loss that FDIC-R was not in a position to wait any longer and would be filing a motion.

10. Attached as Exhibit 1 is a true and correct copy of an email I sent to Matthew Dendinger (counsel for Progressive) on November 12, 2013.

11. Attached as Exhibit 2 is a true and correct copy of an email I sent to Mr. Dendinger on November 27, 2013, an email I sent to Mr. Dendinger on December 13, 2013, and an email I sent to Mr. Dendinger on December 17, 2013.

12. Attached as Exhibit 3 is a true and correct copy of an email I received from Mr. Dendinger on December 17, 2013 (without attachment).

13. Attached as Exhibit 4 is a true and correct copy of an email I sent to Mr. Dendinger on December 19, 2013.

14. Attached as Exhibit 5 is a true and correct copy of a letter sent by Mr. Dendinger on or about December 16, 2013.

15. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 27, 2013

/s/ Joseph M. Saka
Joseph M. Saka